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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/252,828 02/19/99 DONG

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SUITE 500  
WASHINGTON DC 20007-8696

EXAMINER

COOK, L

ART UNIT

PAPER NUMBER

1641

DATE MAILED:

17  
01/03/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/252,828**

Applicant(s)

**Dong et al.**

Examiner

**Lisa V. Cook**

Group Art Unit

**1641**



☒ Responsive to communication(s) filed on Jun 28, 2000

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 25-40 and 42-47 is/are pending in the application

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 25-40 and 42-47 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

## DETAILED ACTION

### *Election/Restrictions*

1. Previously, the amendment filed on 6/28/00 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because claims 28, 36, 37, 38, and 41 are drawn to a plurality of disclosed patentably distinct inventions (glycopolypeptides comprising materially different amino acid sequences as evidenced by separate amino acid position substitutions). These separate glycopolypeptides bear distinct structural or biochemical properties as substantiated by the separate amino acid substitution positions thereby having different binding characteristic and functionality. **Therefore, each disclosed patentably distinct glycopolypeptide is considered a separate invention and changes the scope of the previously elected invention.**

2. Applicants response to the non-responsive notice mailed 9/12/00 in paper #13 (reiterated in item 1 above) has been fully considered but is still drawn to a non-elected invention. Newly amended claims 28, 36, 37, and 38 have been modified, but remain distinct from the previously elected invention. **The amendment in Paper #15 filed 11/16/00 has removed specific protein substitutions (i.e. tyr, asp, gln, asn, glu, gln, ile, pro, phe, cys, ala, ile, ser, lys, met, etc...) and replaced these with any substitution that preserves the human-species specific glycosylation pattern of the glycoprotein.**

Therefore, The remaining claims are not readable on the elected invention because claims 28, 36, 37, and 38 continue to be drawn to a plurality of disclosed patentably distinct inventions (glycopolypeptides comprising materially different amino acid sequences as evidence by separate amino acid position substitutions). These separate glycopolypeptides bear distinct structural or biochemical properties as substantiated by the separate amino acid substitution positions thereby having different binding characteristic and functionality. Each disclosed patentably distinct glycopolypeptide having separate amino acid position substitutions is considered a separate invention and changes the scope of the previously elected invention.

3. Applicant is advised that the amendment must be drawn to the elected invention as selected without traverse in Paper#8, filed 3/10/2000. Herein (paper #8) claims 1, 2, 6-11, and 22-24 are drawn to a purified recombinant glycoprotein having varied homology with Seq. Id. No. 1. The instant claims introduce patentable distinct amino acid substitution requirement which were not previously elected.

4. Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Art Unit: 1641

5. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO fax Center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 1641 Fax number is (703) 308-4242, which is able to receive transmissions 24 hours/day, 7 days/week.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa V. Cook whose telephone number is (703) 305-0808. The examiner can normally be reached on Monday – Friday from 8:00AM – 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (703) 305-3399.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

  
Lisa V. Cook

Art Unit 1641  
CM1-7B19  
(703) 305-0808  
January 2, 2001

  
LONG V. LE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

01/02/01